UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,398	09/28/2000	Warren E. Langdon	1724 (USW 0605 PUS)	8268

22193   7590   02/23/2004

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EXAMINER
LAZARO, DAVID R

ART UNIT	PAPER NUMBER
2155	5

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sh et with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _1/12/04_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _12 January 2004_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the amendment filed December 17, 2003,

Paper No. 3.

2.   Claims 1-20 are pending in this Office Action

3.   Claims 1, 7, 9, 15 and 20 were amended.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-5, 15, 16 and 20 are rejected under 35 U.S.C. 102(e) as being

anticipated by Eyal, U.S. Patent 6,389,467.

6.   With respect to Claim 1, Eyal teaches a method of providing programming to a

portable wireless music player (Col. 1 lines 58-62) having a memory and being

operative to transmit and receive information over a wireless link to a wireless service

network (Col. 10 lines 46-63), the portable wireless music player being only a relatively

simple listening device with limited functionality so as not to be time critical in its

operations (Col. 10 lines 48-65 and Col. 33 lines 51-64), the wireless service network

being in communication with a music service provider wherein the music service

provider allows connections from remote clients (Col. 10 lines 33-45), the method

comprising connecting to the music service provider from a remote client (Col. 10 lines

19-23), defining a play list at the music service provider through user interaction at the

remote client (Col. 31 lines 61-64), connecting to the music service provider with the

player (Col. 13 lines 58-64) over the wireless service network (Col. 10 lines 34-38),

downloading music to the portable wireless music player from the music service

provider in accordance only with the previously defined play list (Col. 32 lines 17-19)

such that the portable wireless music player is only a relatively simple listening device

with limited functionality so as not to be time critical in its operations (Col. 10 lines 48-65

and Col. 33 lines 51-64), and playing the music at the player (Col. 32 lines 5-11).

7.   It must be noted that in the method taught by Eyal, a user can first access the

music service provider through a remote client such as a PC (Col. 13 line 50) define the

playlist (Col. 31 lines 61-64) and subsequently access that playlist (Col. 32 lines 17-19)

using a portable wireless music player (Col. 13 lines 46-47).

8.   With respect to Claim 2, Eyal teaches all the limitations of Claim 1 and further

teaches the music service provider is connected to the Internet, and connecting to the

music service provider from the remote client further comprises connecting over the

Internet (Col. 10 lines 33-34).

9.   With respect to Claim 3, Eyal teaches all the limitations of Claim 1 and further

teaches the wireless service network includes a packet network (Col. 10 lines 33-41).

10.   With respect to Claim 4, Eyal teaches all the limitations of Claim 1 and further

teaches the wireless service network includes a virtual local area network (Col. 10 lines

33-41).

11.   With respect to Claim 5, Eyal teaches all the limitations of Claim 1 and further

teaches the wireless service network includes a last leg, and wherein the last leg is in

accordance with Internet Protocol (Col. 10 lines 38-41).

12.   With respect to Claim 15, Eyal teaches a portable wireless player for use in

playing programming received over a wireless link to a wireless service network, the

wireless service network being in communication with a service provider that allows

connections from remote clients wherein a remote client connects to the service

provider and defines a play list at the service provider through user interaction at the

remote client, the portable wireless player comprising a housing, a processor disposed

in the housing (Col. 10 lines 49-51), a memory disposed in the housing (Col. 10 line 51),

a transmitter for transmitting information over the wireless service (Col. 10 lines 53-56),

a receiver for receiving information over the wireless service network (Col. 10 lines 53-

56), and instructions in memory that direct the processor to connect to the service

provider over the wireless service network (Col. 10 lines 19-23), to download

programming to the player in accordance only with the previously defined play list (Col.

32 lines 17-19) such that the portable wireless music player is only a relatively simple

listening device with limited functionality so as not to be time critical in its operations

(Col. 10 lines 48-65 and Col. 33 lines 51-64), and to play the programming (Col 10 lines

64-66).

13.   With respect to Claim 16, Eyal teaches all the limitations of Claim 15 and further

teaches the wireless service network includes a last leg in accordance with Internet

protocol (Col 10 lines 33-41), and wherein the instructions further comprise instructions

in the memory for connecting to the wireless service network in accordance with

Internet protocol (Col. 10 lines 40-38 and Col. 13 lines 47-49).

14.   With respect to Claim 20, Eyal teaches a portable wireless music player for use

in playing programming (Col. 13 lines 46-49) received over a wireless link to a wireless

service network (Col. 10 lines 37-38), the wireless service network being in

communication with a music service provider that allows connections from remote

clients wherein a remote client connects to the music service provider and defines a

play list at the service provider through user interaction at the remote client (Col. 32

lines 17-19), the portable wireless player comprising a housing, a processor disposed in

the housing (Col. 10 lines 49-51), a memory disposed in the housing (Col. 10 line 51), a

transmitter for transmitting information over the wireless service (Col. 10 lines 53-56), a

receiver for receiving information over the wireless service network (Col. 10 lines 53-

56), and instructions in memory that direct the processor to connect to the music service

provider over the wireless service network (Col. 10 lines 19-23), to download music to

the portable wireless player in accordance only with the previously defined play list

(Col. 32 lines 17-19) such that the portable wireless music player being only a relatively

simple listening device with limited functionality so as not to be time critical in its

operations (Col. 10 lines 48-65 and Col. 33 lines 51-64), and to play the music (Col 10

lines 64-66), and display for displaying the play list (Col. 10 line 51). It is inherent that

the portable wireless player has a plurality of control buttons for selecting music to play

from the play list on the display (Col 13 lines 46-58).

Claim Rejections - 35 USC § 103

15.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

16.   Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Eyal in view of La Porta et al., U.S. Patent 6,434,134 (La Porta).

17.   With respect to Claim 6, Eyal teaches all the limitations of Claim 5. Eyal does not

explicitly disclose the use of dynamic host configuration protocol (DHCP). La Porta

teaches the use of DHCP for resolving address issues (Col. 1 lines 52-62). It would

have been obvious to one of ordinary skill in the art at the time the invention was made

to modify the method disclosed by Eyal with the use of dynamic host configuration

protocol in the last leg of the wireless service network as indicated by La Porta. One

would be motivated to have this since dynamic allocation is particularly useful for

assigning an address to a host that will be connected to the network only temporarily or

for sharing a limited pool of IP addresses (Col. 1 lines 45-48 and Col. 2 lines 33-37 of

La Porta).

18.   With respect to Claim 17, Eyal teaches all the limitations of Claim 16. Eyal does

not explicitly disclose instructions for connecting the wireless service network in

accordance to dynamic host configuration protocol (DHCP). La Porta teaches the use

of DHCP for resolving address issues (Col. 1 lines 52-62). It would have been obvious

to one of ordinary skill in the art at the time the invention was made to modify the player

disclosed by Eyal with the instructions for connecting to the wireless service network in

accordance with dynamic host configuration protocol as indicated by La Porta. One

would be motivated to have this since dynamic allocation is particularly useful for

assigning an address to a host that will be connected to the network only temporarily or

for sharing a limited pool of IP addresses (Col. 1 lines 45-48 and Col. 2 lines 33-37 of

La Porta).

19.   Claims 7, 8, 18 and 19 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Eyal in view of La Porta as applied to claim 6 above, and further in

view of Hulyalkar, U.S. Patent 5,787,080.

20.   With respect to Claim 7, Eyal in view of La Porta teaches all the limitations of

Claim 6. Eyal does note explicitly disclose the use of a quality of service rating.

Hulyalkar teaches the use of quality of service ratings in a wireless network (Col. 3 lines

51-58). It would have been obvious to one of ordinary skill in the art to modify the

method disclosed by Eyal wherein the connection between the music service provider

and the portable wireless music player, including a portion of the connection over the

last leg, includes a quality of service rating as indicated by Hulyalkar. One would be

motivated to have this since different data types have different requirements in terms of

network connections. For instance, audio data does not need packet-error reliability as

much as it needs to prevent excessive delay (Col. 1 lines 36-44 of Hulyalkar).

21.   With respect to Claim 8, Eyal in view of La Porta and in further view of Hulyalkar

teaches all the limitations of Claim 7 and further teaches the wireless service network is

for providing a plurality of services in addition to connections to the music service

provider (Col. 3 lines 51-58 of Hulyalkar), wherein the plurality of services have different

quality of service ratings (Col. 3 lines 41-58 of Hulyalkar).

22.   With respect to Claim 18, Eyal in view of La Porta teaches all the limitations of

Claim 17. Eyal does note explicitly disclose the use of a quality of service rating.

Hulyalkar teaches the use of quality of service ratings in a wireless network (Col. 3 lines

51-58). It would have been obvious to one of ordinary skill in the art to modify the

player disclosed by Eyal wherein the connection between the music service provider

and the portable wireless player, including a portion of the connection over the last leg,

includes a quality of service rating as indicated by Hulyalkar. One would be motivated

to have this since different data types have different requirements in terms of network

connections. For instance, audio data does not need packet-error reliability as much as

it needs to prevent excessive delay (Col. 1 lines 36-44 of Hulyalkar).

23.   With respect to Claim 19, Eyal in view of La Porta and in further view of Hulyalkar

teaches all the limitations of Claim 18 and further teaches the wireless service network

is for providing a plurality of services in addition to connections to the music service

provider (Col. 3 lines 51-58 of Hulyalkar), wherein the plurality of services have different

quality of service ratings (Col. 3 lines 51-58 of Hulyalkar).

24.   Claims 9-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Eyal in

view of Hulyalkar.

25.   With respect to Claim 9, Eyal teaches a method of providing programming to a

portable wireless player (Col. 1 lines 58-62) having a memory and being operative to

transmit and receive information over a wireless link to a wireless service network (Col.

10 lines 46-63), the portable wireless music player being only a relatively simple

listening device with limited functionality so as not to be time critical in its operations

(Col. 10 lines 48-65 and Col. 33 lines 51-64), the wireless service network being in

communication with a music service provider wherein the music service provider allows

connections from remote clients (Col. 10 lines 33-45), the method comprising

connecting to the service provider from a remote client (Col. 10 lines 19-23), defining a

play list at the service provider through user interaction at the remote client (Col. 31

lines 61-64), connecting to the service provider with the portable wireless music player

(Col. 13 lines 58-64) over the wireless service network (Col. 10 lines 34-38),

downloading programming to the portable wireless music player from the service

provider in accordance only with the previously defined play list (Col. 32 lines 17-19)

such that the portable wireless music player is only a relatively simple listening device

with limited functionality so as not to be time critical in its operations (Col. 10 lines 48-65

and Col. 33 lines 51-64), and playing the programming at the portable wireless music

player (Col. 32 lines 5-11). Eyal does note explicitly disclose the wireless service network providing a plurality of services in addition to connections to the service provider, each having a different quality of service rating. Hulyalkar teaches the use of quality of service ratings in a wireless service network that provides a plurality of services (Col. 3 lines 51-58). It would have been obvious to one of ordinary skill in the art to modify the method disclosed by Eyal wherein the connection between the service provider and the portable wireless player provides a plurality of services having different quality of service ratings as indicated by Hulyalkar. One would be motivated to have this since different data types have different requirements in terms of network connections. For instance, audio data does not need packet-error reliability as much as it needs to prevent excessive delay (Col. 1 lines 36-44 of Hulyalkar).

26.   With respect to Claim 10, Eyal in view of Hulyalkar teaches all the limitations of Claim 9 and further teaches the service provider is connected to the Internet, and connecting to the service provider from the remote client further comprises connecting over the Internet (Col. 10 lines 33-34 of Eyal).

27.   With respect to Claim 11, Eyal in view of Hulyalkar teaches all the limitations of Claim 9 and further teaches the wireless service network includes a packet network (Col. 10 lines 33-41 of Eyal).

28.   With respect to Claim 12, Eyal in view of Hulyalkar teaches all the limitations of Claim 9 and further teaches the wireless service network includes a virtual local area network (Col. 10 lines 33-41 of Eyal).

29.   With respect to Claim 13, Eyal in view of Hulyalkar teaches all the limitations of

Claim 9 and further teaches the wireless service network includes a last leg, and

wherein the last leg is in accordance with Internet Protocol (Col. 10 lines 38-41 of Eyal).

30.   Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eyal in

view of Hulyalkar as applied to claim 13 above, and further in view of La Porta. Eyal in

view of Hulyalkar teaches all the limitations of Claim 13. Eyal in view of Hulyalkar does

not explicitly disclose the use of dynamic host configuration protocol (DHCP). La Porta

teaches the use of DHCP for resolving address issues (Col. 1 lines 52-62). It would

have been obvious to one of ordinary skill in the art at the time the invention was made

to modify the method disclosed by Eyal in view of Hulyalkar with the use of dynamic

host configuration protocol in the last leg of the wireless service network as indicated by

La Porta. One would be motivated to have this since dynamic allocation is particularly

useful for assigning an address to a host that will be connected to the network only

temporarily or for sharing a limited pool of IP addresses (Col. 1 lines 45-48 and Col. 2

lines 33-37 of La Porta).

Response to Arguments

31.   The Claim Objections in regards to Claims 1, 7 and 9 are withdrawn.

32.   Applicant's arguments filed 12/17/03 have been fully considered but they are not

persuasive.

33.   Applicant argues – "*music is downloaded in accordance only with the previously defined play list such that the portable wireless music player is only a relatively simple listening device with limited functionality so as not to be time critical in its operations. In contrast, Eyal describes Internet enabled computing platforms that are far different...*"

a.   Although Eyal does describe Internet enabled computing platforms, these platforms can be used to first access the server system in order to use the search functionality and define play lists. Applicant's invention also has such platforms in order to initially define play lists. The defined play list can then be accessed by any user device capable of accessing the system (Col. 32 lines17-19). Eyal describes numerous devices, some with more functionality than others, but ultimately describes a basic device with limited functionality so as not to be time critical in its operations. Eyal recognizes that users may wish to listen to their previously defined play list on different types of devices and thus describes the basic essentials of processor, memory, media playback and output, and communications port such as a wireless port (Col. 10 lines 48-65). Eyal also discloses the device can be simply any wireless enabled device with media playback capabilities (Col. 33 lines 51-64). Therefore the minimum scope disclosed by Eyal for a device to access a predefined play list and playback the music of that play list would have limited functionality so as not to be time critical in its operations.

34.   Applicant argues – "*In Eyal, the network-enabled devices are generally used for streaming media search and playback, and Eyal also offers a detailed discussion of data management.*"

> b.   Eyal also describes the capability for the user to define their own play list and access them at a later time using a different device (Col. 32 lines 17-19). A search may first be done on a computer such as a PC and a play list defined which can be subsequently be accessed by a portable wireless music player. Eyal does describe data management as would be expected in any system involving the management of services provided to specific users such as storing user defined play lists and subsequently transmitting to the user the music data associated with that play list.

35.   Applicant argues – "*Further there is no suggestion to modify these devices in Eyal, where are exemplified as a PC, PDA, cell phone or Palm PC, to achieve applicant's invention.*"

> c.   As described earlier, the PC, PDA, cell phone or Palm PC are just examples of well known devices that can access the system disclosed by Eyal. Some can be used to access and define play lists while others can be used to later access the defined play list. Eyal implies that other devices, such as those with limited functionality so as not to be time critical in their operations (Col. 10 lines 48-65), can be used to access pre-defined play lists as long as they can access the network, receive communications and playback the music (Col. 32

lines 17-19). There are many such devices that are simple listening devices with limited functionality that could be adapted to use the system of Eyal to access predefined play lists, such as Samsung's internet music player the YP-SE32PS (See "New Products/Systems: Yepp, its an MP3 music player"). Please refer to MPEP § 2121.01.I.

Conclusion

36.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

37.   U.S. Patent 5,819,160 by Foladare et al. "Programmable radio subscription system for receiving selectively defined information" October 6, 1998

38.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

39.   A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 703-305-4868. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 703-308-6662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Lazaro
February 19, 2004

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER